

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

D.H. DEESIGNS, LLC,

Plaintiff,

C.A. No. 1:22-cv-06774

v.

YUYING BAI and Does 1-10,

Defendants.

~~PROPOSED~~ **DEFAULT JUDGMENT AND PERMANENT INJUNCTION ORDER**


AND NOW, this 3^d day of March, 2023, upon consideration of Plaintiff's Motion for Default Judgment, the declarations and exhibits thereto, and any responses and reply and argument submitted in support or opposition to the motion, the Court **FINDS** that:

1. Defendant Yuying Bai was properly served with the summons, complaint, and the other pleadings in this Action. Defendant Yuying Bai received adequate notice of this Action, in satisfaction of due process requirements and as required by Fed. R. Civ. P. 4.
2. Defendant Yuying Bai has failed to appear, plead, or otherwise defend against this Action. The requisite time of 21 days between service of the summons and complaint has elapsed. The Clerk properly entered default pursuant to Rule 55(a) on October 25, 2022.
3. The evidence indicates that Defendant Yuying Bai is neither an infant, incompetent, or in the military.
4. The factual allegations in the Complaint, which are deemed admitted by Defendant Yuying Bai's default, and the further evidence in D.H. Deesigns, LLC (hereinafter "DHD")'s supporting papers establish that Yuying Bai is liable for trademark counterfeiting and trademark infringement under the Lanham Act. By establishing

Defendant Yuying Bai's liability under the Lanham Act, DHD is also entitled to a presumption of irreparable harm. 15 U.S.C. § 1116(a).

5. As a result of Defendant Yuying Bai's established liability under the Lanham Act, DHD is entitled to recover statutory damages in the amount of **four million dollars** (\$4,000,000).

6. DHD has shown as a matter of law that Defendant Yuying Bai has infringed and is infringing Plaintiff's rights in the trademarks reflected in U.S. Trademark Registration Nos. 4763846, 5530744, and 5028698 (DEE OCLEPPO standard character mark); and

U.S. Trademark Registration No. 5008762 for  (Dee Ocleppo Design) (collectively, and with Plaintiff's common law rights, the "Dee Ocleppo Marks").

Specifically, Defendant's use of the identical Dee Ocleppo Marks in connection with Dee Ocleppo-branded products was and is likely to cause confusion, or to cause mistake, or to deceive consumers as to affiliation, connection or association with Plaintiff;

7. DHD is entitled to a presumption of irreparable harm under 15 U.S.C. § 1116(a), that presumption has not been rebutted, and DHD has demonstrated that it will be irreparably harmed by further infringement of its rights in the Dee Ocleppo Marks;
8. monetary damages are inadequate to compensate DHD for Defendant's willful infringement;
9. the balance of harms favors injunctive relief; and
10. the public interest favors trademark enforcement and remedying infringement in the relevant market.

Accordingly, DHD's Motion for Default Judgement and a Permanent Injunction is hereby **GRANTED**. Defendant Yuying Bai, their officers, agents, servants, employees, attorneys, and

any other persons acting in active concert or participation with any of those listed, or otherwise owned by or controlled by them, are hereby **ENJOINED** from any of the following acts:

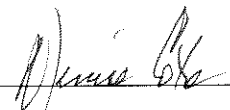
- a. advertising, marketing, promoting, selling, offering for sale or authorizing any third party to advertise, market, promote, sell or offer for sale any goods or services bearing the Dee Ocleppo Marks, or any other mark that is a counterfeit, copy, simulation, confusingly similar variation, or colorable imitation of the Dee Ocleppo Marks;
- b. engaging in any activity that infringes DHD's rights in the Dee Ocleppo Marks;
- c. engaging in any activity that constitutes unfair competition with DHD;
- d. using or authorizing any third party to use any other false designation of origin or false description or representation or any other thing calculated or likely to cause confusion or mistake in the mind of the trade or public or to deceive the trade or public into believing that Defendant's products or activities are in any way sponsored, licensed or authorized by or affiliated or connected with DHD;
- e. making or displaying any statement, representation, or depiction that is likely to lead the public or the trade to believe that the products or services promoted, offered, or sponsored by Defendant are in any manner approved, endorsed, licensed, sponsored, authorized, or franchised by or associated, affiliated, or otherwise connected with DHD, or that DHD's products and services are in any manner approved, endorsed, licensed, sponsored, authorized, or franchised by or associated, affiliated, or otherwise connected with Defendant;
- f. registering or applying to register any trademark, service mark, domain name, trade name, or other source identifier or symbol of origin consisting of or incorporating the Dee Ocleppo Marks or any other mark that infringes or is likely to be confused with the Dee Ocleppo Marks, or any products of DHD; and

g. assisting, aiding, or abetting any other person or business entity in engaging in or performing any of the activities referred to in the above subparagraphs, or effecting any assignments or transfers, forming new entities or associations, or utilizing any other device for the purpose of circumventing or otherwise avoiding the prohibitions set forth in above subparagraphs.

Defendant shall within fourteen (14) days deliver up for destruction any and all products, circulars, price lists, labels, brochures, business cards, signs, prints, packages, wrappers, pouches, advertising matter, promotional materials, and other materials in the possession or control of Defendant bearing the Dee Ocleppo Marks, any derivation or colorable imitation thereof, or any mark confusingly similar thereto or likely to dilute or detract from the Dee Ocleppo Marks;

Defendant shall within thirty (30) days file with the Court a sworn written statement setting forth in detail the manner and form in which Defendant have complied with this Order.

IT IS ORDERED THIS 3d day of March, 2023



The Honorable Denise L. Cote
United States District Judge